



House of Representatives

General Assembly

File No. 55

January Session, 2015

Substitute House Bill No. 6741

House of Representatives, March 12, 2015

The Committee on Children reported through REP. URBAN of the 43rd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING CADMIUM IN CHILDREN'S JEWELRY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2015, and applicable to violations*
2 *occurring on or after said date*) (a) As used in this section:

3 (1) "Cadmium" means elemental cadmium and any compounds or
4 alloys which contain cadmium;

5 (2) "Children's jewelry" means any jewelry, including charms,
6 bracelets, pendants, necklaces, earrings or rings, and any component
7 thereof, that is designed or intended to be worn by children twelve
8 years of age or younger; and

9 (3) "Commissioner" means the Commissioner of Consumer
10 Protection.

11 (b) Each person who manufactures children's jewelry for sale or
12 distribution in this state and each person who distributes children's

13 jewelry in this state shall register with the Department of Consumer
14 Protection on a form prescribed by the commissioner and pay a
15 reasonable registration fee, as determined by the commissioner, but
16 not to exceed ____ dollars, to offset the costs of administering the
17 provisions of this section. The commissioner shall develop a testing
18 compliance form to be completed by all registered manufacturers and
19 distributors.

20 (c) No person shall manufacture for sale in this state or distribute in
21 this state any children's jewelry that contains cadmium at more than
22 the amounts specified in subsection (d) or (e) of this section.

23 (d) The commissioner shall require manufacturers and distributors
24 to certify in writing on a compliance form developed by the
25 commissioner that all children's jewelry manufactured for distribution
26 in this state or for sale in this state has been tested for cadmium using a
27 total content test. The passing standard for such total content test shall
28 be not more than .01 per cent by weight. Total content test methods
29 shall be applied separately to each component part of such jewelry and
30 may include, but shall not be limited to, x-ray fluorescence
31 spectrometry analysis or total digestion testing, as specified by the
32 latest ASTM International standards. The commissioner shall not
33 require leaching or extraction (solubility) testing for children's jewelry
34 that has not met the total content test passing standard.

35 (e) In addition to the total content test required pursuant to
36 subsection (d) of this section, the commissioner, in the commissioner's
37 discretion, may require written verification from manufacturers and
38 distributors of a surface coating test for cadmium in children's jewelry
39 that contains paint or any other surface coating. The passing standard
40 for such surface coating test shall be not more than .0075 per cent by
41 weight.

42 (f) (1) (A) Except as provided in subparagraph (B) of this
43 subdivision, any person who violates subsection (c) of this section shall
44 be guilty of a class B misdemeanor.

45 (B) For any offense committed with intent to defraud or mislead, or
46 for any second or subsequent offense, any person who violates
47 subsection (c) of this section shall be guilty of a class A misdemeanor,
48 except that such person may be fined not more than five thousand
49 dollars.

50 (2) No person shall be subject to the penalties set forth in
51 subdivision (1) of this subsection if such person received, delivered or
52 proffered delivery of the children's jewelry in good faith. Such person
53 shall furnish, on request of an officer or employee duly designated by
54 the commissioner, the name and address of the individual or entity
55 from whom such person purchased or received such children's
56 jewelry, and shall also furnish copies of all documents in the
57 possession of such person, if any, pertaining to the delivery of the
58 children's jewelry to such person.

59 (g) A violation of subsection (c) of this section shall be an unfair or
60 deceptive act or practice in the conduct of trade or commerce pursuant
61 to subsection (a) of section 42-110b of the general statutes.

62 (h) Any person required by an order of the commissioner to pay a
63 fine, cease and desist from using any method, act or practice declared
64 unlawful pursuant to section 42-110b of the general statutes or to make
65 restitution may appeal therefrom in accordance with the provisions of
66 section 4-183 of the general statutes. Any appeal brought under this
67 subsection shall be privileged with respect to assignment for trial.

68 (i) The commissioner, after consultation with the Commissioner of
69 Public Health, shall develop and provide information to the public on
70 the Department of Consumer Protection's Internet web site regarding
71 safety issues related to cadmium in children's jewelry and
72 recommended precautions parents may take to reduce or eliminate
73 such safety issues.

74 Sec. 2. Section 21a-12d of the general statutes is repealed. (*Effective*
75 *October 1, 2015*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015, and applicable to violations occurring on or after said date</i>	New section
Sec. 2	<i>October 1, 2015</i>	Repealer section

Statement of Legislative Commissioners:

For the purpose of accuracy and clarity "American Society of Testing Materials" in the third sentence of subsection (d) was changed to "ASTM International".

KID *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Resources of the General Fund	GF - Potential Revenue Gain	Less than 35,000	Less than 35,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	23,086	23,086
Consumer Protection, Dept.	GF - Cost	70,980	60,230

Municipal Impact: None

Explanation

The bill results in a cost to the state of \$94,066 in FY 16 and \$83,316 in FY 17 due to the need of a Consumer Protection Product Safety Inspector (AR-21) within the Department of Consumer Protection. Additionally the bill results in a potential General Fund revenue gain of less than \$35,000 in both FY 16 and FY 17.

Costs in FY 16 include a salary of \$59,730; fringe benefits of \$23,086; \$1,000 for field equipment; \$500 in Other Expenses; \$9,000 for testing costs and \$750 to calibrate an x-ray fluorescence spectrometer. The Consumer Product Safety Inspector will regulate the registrations and compliance forms, produce the fact sheets, investigate complaints, perform investigations and field testing.

The bill changes the standards for cadmium in children's jewelry and also starts the requirements ten months earlier than under current statute. This results in the costs for the testing and spectrometer

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 38.65% of payroll in FY 16 and FY 17.

calibration in FY 16 which would have otherwise not have occurred until FY 17. It is anticipated that 75 tests at a cost of \$150 per test would occur yearly.

The bill creates a new misdemeanor for the manufacturing for sale or distribution of children's jewelry that contains more than the allowable cadmium levels. It is anticipated that less than 10 violations will occur, resulting in a revenue gain through fines of \$10,000 - \$35,000.

The Out Years

The annualized ongoing fiscal impact identified in FY 17 above would continue into the future subject to inflation and the number of violations.

OLR Bill Analysis**HB 6741*****AN ACT CONCERNING CADMIUM IN CHILDREN'S JEWELRY.*****SUMMARY:**

This bill (1) increases, from .0075% to .01%, the maximum amount (by weight) of cadmium allowed in children's jewelry manufactured or distributed in Connecticut and (2) limits to .0075% (by weight) the amount of cadmium allowed in the jewelry's surface coating. It does so by replacing the current .0075% cadmium limit effective July 1, 2016 and replacing it with the new thresholds.

The bill also specifies cadmium content testing requirements. Under the bill, manufacturers and distributors must certify to the consumer protection (DCP) commissioner in writing that children's jewelry has been tested for cadmium using a total content test. The commissioner may also require verification that the jewelry's surface coating has been tested.

Under the bill, certain manufacturers and distributors who violate the cadmium limits are subject to civil and criminal penalties.

The bill also requires children's jewelry manufacturers and distributors who sell or distribute such jewelry in the state to register with DCP.

Additionally, the bill requires the DCP commissioner, after consulting the public health commissioner, to develop and provide to the public, on the DCP website, information regarding (1) safety issues related to cadmium in children's jewelry and (2) recommended precautions parents may take to reduce or eliminate safety issues.

EFFECTIVE DATE: October 1, 2015, and applicable to violations

that occur on or after that date.

DEFINITIONS

“Cadmium” means elemental cadmium, or compounds or alloys containing it.

“Children’s jewelry” is jewelry designed or intended to be worn by children under age 13. It includes charms, bracelets, pendants, necklaces, earrings, and rings, and any of their components.

TESTING REQUIREMENTS

Testing Compliance

Under the bill, the DCP commissioner must require manufacturers and distributors to certify in writing on a DCP compliance form that all children’s jewelry manufactured for distribution, or for sale, in Connecticut has been tested for cadmium using a total content test. To pass the test, the jewelry cannot contain more than .01% (by weight) of cadmium.

Test Methods

The total content test methods must be applied separately to each component of the jewelry and may include x-ray fluorescence spectrometry analysis (i.e., analysis of chemical composition using x-rays and wave length measurement) or total digestion testing (i.e., breakdown of a sample into its component parts, typically through acid immersion), as specified by the latest ASTM International standards (see BACKGROUND). The bill prohibits the commissioner from requiring leaching or extraction (solubility) testing for children’s jewelry that has not met the total content standard.

In addition to the total content test, the commissioner, at his discretion, may require manufacturers and distributors to provide written verification of a surface coating test for cadmium in children’s jewelry with a painted or coated surface. The passing standard for the surface coating test is .0075% (by weight).

MANUFACTURER AND DISTRIBUTOR REGISTRATION

The bill requires children's jewelry manufacturers and distributors who sell or distribute such jewelry in the state to register with DCP on a form prescribed by the commissioner. The manufacturer or distributor must pay a reasonable registration fee determined by the commissioner and capped at an unspecified amount to offset administrative costs. The DCP commissioner must also develop a testing compliance form.

PENALTIES

Criminal

Under the bill, anyone who manufactures for sale or distributes in Connecticut any children's jewelry that contains more than the allowable cadmium commits a class B misdemeanor (punishable by up to six months in prison, up to a \$1,000 fine, or both). A subsequent violation, or one committed with the intent to defraud or mislead, is a class A misdemeanor (punishable by up to one year in prison, up to a \$2,000 fine, or both) except the bill allows up to a \$5,000 fine.

The bill does not apply the criminal penalty to a person who received, delivered, or offered delivery of the children's jewelry in good faith. The person must furnish, at DCP's request, (1) the name and address of the individual or entity who sold or provided the children's jewelry, and (2) copies of any documents pertaining to the delivery of the jewelry to the person.

Connecticut Unfair Trade Practices Act (CUTPA)

Under the bill, it is deemed an unfair or deceptive trade practice, in violation of CUTPA, to sell or distribute children's jewelry that is over the allowed threshold. A person can appeal under the Uniform Administrative Procedure Act if the DCP commissioner requires the person to (1) pay a fine, (2) cease and desist from using any method, act, or practice unlawful under CUTPA, or (3) make restitution. The bill gives such appeals priority for assignment for trial.

BACKGROUND

Cadmium

The U. S. Department of Health and Human Services has determined that cadmium and its compounds are human carcinogens. Animal studies indicate that the young absorb more cadmium than adults. Animal studies also indicate that the young are more susceptible than adults to a loss of bone and decreased bone strength from exposure to cadmium.

ASTM International

ASTM International, formerly known as the American Society for Testing and Materials, is a non-profit international organization that provides a forum for the development and publication of voluntary consensus standards for material, products, systems, and services.

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the DCP commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$5,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorneys' fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Committee on Children

Joint Favorable

Yea 10 Nay 0 (02/26/2015)